

Alabama Securities Commission



Functional Analysis & Records Disposition Authority

**Revision
Presented to the
State Records Commission
January 24, 2002**

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Functional and Organizational Analysis of the Alabama Securities Commission

Sources of Information

- Representatives of the Alabama Securities Commission
- Code of Alabama 1975 § 8-6-50 through § 8-6-60
- Alabama Administrative Code Chapters 830-X-1 through 830-X-4
- Alabama Government Manual (1998)
- Alabama Securities Commission Annual Report (1992-1994)
- Holdings of the Department of Archives and History
- Alabama Securities Commission Records Schedules

Agency Organization

The Alabama Securities Commission is made up of the Attorney General of Alabama, the State Superintendent of Banks, the State Insurance Commissioner, two attorneys, and two certified public accountants appointed by the governor with the advice and consent of the Senate. Appointed members serve four-year terms, no more than two consecutively. The commission is instructed to meet quarterly but may meet more often if necessary. A full-time director is selected by the commissioners through the State Merit System. The director selects, through the State Merit System, a deputy director and such personnel as he deems necessary for the proper administration of the Alabama Securities Act. Currently, the commission is organized into six divisions: Directorate, Legal, Registration, Data Systems (ASCIMS), Administration, and Enforcement. An organizational chart is attached.

Agency Function and Subfunctions

The mandated function of the Securities Commission is to enforce the laws governing the issuance, sale, and other transactions relative to securities, including licensing and registration of broker/dealers, agents, investment advisors, and investment advisor representatives, as well as the sale of checks and Industrial Revenue Bonds made within, into, or from the state of Alabama (Code of Alabama 1975 § 8-6-50). It is one of the agencies responsible for performing the Regulatory function of Alabama government.

In the performance of its mandated function, the Securities Commission may engage in the following subfunctions.

- **Licensing/Registering.** The Securities Commission licenses firms for the sale of checks and registers Industrial Revenue Bonds, securities, dealers of securities and their agents, investment advisors, and investment advisor representatives in the state. The licensure process involves filling out and submitting an application form and a certified financial statement as well as either a corporate surety bond or a deposit of bonds with the State Treasurer. Registration is accomplished by filing an application with the

commission along with a registration fee. Dealers and salesmen must be bonded. Re-registration involves filing a statement each year that includes a list of locations of offices and agencies. Securities are registered in one of three ways: notification, the least complicated method of registration, is used by established companies; coordination is used in coordination with federal registration under the Securities Act of 1933; and qualification is the method for registering securities used by unestablished companies which must meet qualifications as set forth in the Code of Alabama 1975 § 8-6-1 through § 8-6-14. Adverse decisions are issued to applicants/registrants in the form of preliminary orders.

The Alabama Securities Commission Information Management Systems (ASCIMS) division maintains a computer system to aid and support the needs of the agency. The activities related to this subfunction include maintaining the Central Registration Depository (CRD) and the Securities Registration Depository (SRD), two national registration networks; creating various administrative reports; and performing data analysis on computer records seized by the commission.

- **Supervising.** This subfunction covers the supervision of the sale of checks and securities and of the activities of dealers, their salesmen, and investment advisors. Such supervision includes the establishment of rules concerning the records to be maintained and the reports to be submitted to the commission. These rules may result from petitions brought by members of the public. The commission also gives interpretative opinions to the public regarding securities regulations. In addition, it promotes investor education.
- **Investigating.** The Securities Commission investigates possible violations of the state's securities laws and institutes legal proceedings in appropriate cases. The commission's investigators are mandated to investigate applicants/registrants, as well as unregistered sellers and sales of unregistered securities. If violations are suspected, then cases are built, and records maintained in investigation files. The commission can require statements of facts from those being investigated. A confidential database is maintained for use in joint investigative and prosecutorial activities with other state and federal enforcement agencies.
- **Conducting Hearings/Determining Sanctions.** The commission executes policy and imposes sanctions upon securities law violators through legal proceedings which may include public hearings, subpoena enforcement, and the taking of testimony in formal hearings. Formal hearings are held to give applicants/registrants an opportunity to respond to preliminary orders of the commission. The commission will issue a final order as to the result. Orders and violations may be published by the commission to alert the public; cease and desist orders may be issued; violators may be called before the commission or taken to court; and warrants may be issued for their arrest if necessary. The commission keeps permanent registers of all denial, suspension, and revocation orders and furnishes copies of these to the public for a fee.
- **Administering Internal Operations.** A significant portion of the agency's activities include general administrative, financial, and personnel activities geared toward

the internal functioning of the agency. These administrative duties are grouped together under the subfunction Administering Internal Operations. Administering Internal Operations includes the following groups of activities:

Managing the Agency: Activities include internal office management activities common to most government agencies such as corresponding and communicating; scheduling; meeting; documenting policy and procedures; reporting; litigating; drafting, promoting, or tracking legislation; publicizing and providing information; managing records; and managing information systems and technology.

Managing Finances: Activities include budgeting (preparing and reviewing a budget package, submitting the budget package to the state Finance Department; documenting amendments and performance of the budget); purchasing (requisitioning and purchasing supplies and equipment, receipting and invoicing for goods, and authorizing payment for products received); accounting for the expenditure, encumbrance, disbursement, and reconciliation of funds within the agency's budget through a uniform system of accounting and reporting; authorizing travel; contracting with companies or individuals; bidding for products and services; assisting in the audit process; investing; and issuing bonds.

Managing Human Resources: Activities include recruiting and hiring eligible individuals to fill positions within the agency; providing compensation to employees; providing benefits to employees, such as leave, health insurance, unemployment compensation, worker's compensation, injury compensation, retirement, and death benefits; supervising employees by evaluating performance, promoting, granting leave, and monitoring the accumulation of leave; training and providing continuing education for employees; and disciplining.

Managing Properties, Facilities, and Resources: Activities include: inventorying and accounting for non-consumable property and reporting property information to the appropriate authority; constructing buildings and facilities; leasing and/or renting offices or facilities; providing security for property owned by the agency; insuring property; and assigning, inspecting and maintaining agency property, including vehicles.

Analysis of Record Keeping System and Records Appraisal of the Alabama Securities Commission

Agency Record Keeping System

The Alabama Securities Commission currently operates a hybrid record keeping system composed of paper and electronic records.

Paper-based System: Most of the commission's records are maintained in paper form and stored either on-site or at the State Records Center.

Computer Systems: The agency currently has three network servers. The first is an IBM 9595 PS/2 used to house the enforcement database. The second machine is a Compact Proliant 2500 that houses the e-mail and SNA server (host connectivity). The third one is an IBM NetFinity 5500M that supports the registration database. Connected to each server are the users' personal computers and network printers. Databases are backed up nightly to magnetic tapes (4mm and DLT). The Friday backup is retained for a month and then reused. All information contained within the commission's databases is duplicated in paper. It is the commission's practice to migrate its applications as the software companies release upgrades. The commission employs scanners on a limited basis to produce electronic images of documents/pictures related to investigations. These images are then used as evidence in court.

Records Appraisal

The following is a discussion of the two major categories of records created and/or maintained by the Alabama Securities Commission: Temporary Records and Permanent Records.

I. Temporary Records. Temporary records should be held for what is considered to be their active life and disposed of once all fiscal, legal and administrative requirements have been met. Some of the temporary records created by the commission are discussed below:

- **Registration Files.** These records are created when an offering document is filed with the commission to apply for registration of securities, or when an individual files to register as a securities salesman, agent, broker/dealer, or investment advisor. These records are maintained for their reference and informational value.
- **Sale of Checks Licensing Files.** These records are created to license firms for the sale of checks, i.e., firms that sell money orders, etc. These records are maintained for their reference and informational value.
- **Regulation D Exemption Files.** These records are created when an application for exemption from the registration of the offer and sale of securities is filed with the commission pursuant to commission Rule 830-X-6-.11 of the Alabama Securities Act. These records are maintained for their reference and informational value.

- **Industrial Development Bond Orders.** These orders are issued to reflect the date a security becomes effective and available for sale in the state or when a broker/dealer becomes active. This is the only record that these securities/brokers have been registered.
- **Registration Orders.** These orders are issued to reflect the date a security becomes effective and available for sale in the state or when a broker/dealer becomes active. This is the only record that these securities have been registered.
- **Registration Rosters.** Rosters are created to document the securities dealers, agents, advisors, salesmen, bonds, and securities that are approved by the commission. These records are maintained in electronic format and should be kept as long as needed.
- **Investigative Files.** These records contain information concerning the investigations of possible violations of the securities laws and subsequent legal proceedings. Summarized information is available in the commission's monthly reports and annual reports. Both are scheduled as permanent records. The Code of Alabama 1975 § 8-6-18 specifies that "no prosecution may be commenced under this article more than five (5) years after the alleged violation." The commission maintains these files 10 years to fulfill the statute of limitations and reference needs.

II. Permanent Records. The Government Records Division recommends the following records as permanent.

Licensing/Registering

- **Meeting Minutes of the Securities Commission.** These records provide the best evidence of the licensing and enforcement activities of the commission because they document the creation of policy. **(Bibliographic Title: Meeting Minutes)**

Supervising

- **Informational Publications.** The Securities Commission from time to time publishes brochures and leaflets. Their purpose is to educate the public about securities laws and to alert the state's citizens to the possibility of securities fraud. **(Bibliographic Title: Informational Publications)**
- **Interpretive/No Action Opinions.** Requests are made of the commission by the public concerning the applicability of the Alabama Securities Act to a contemplated transaction when there is concern that the transaction may violate a provision of the Act. These records serve as responses to the public's requests, and therefore have continuing legal and administrative value. They also serve to document the commission's function as advisor to the public and interpreter of securities laws.
- **Petitions to the Commission.** These records are similar to the Interpretive/No Action Opinions, but the process by which they are created is more complicated and is rarely employed by the commission.

Investigating

Permanent records providing summary documentation of this subfunction are found in the Monthly Reports and the Annual Reports as described in the Administering Internal Operations subfunction.

Conducting Hearings/Determining Sanctions

- **Administrative Orders.** These orders document the final outcome of the investigative and enforcement activities, which may be suspension, revocation, or denial of a license or registration and/or recommendations for further legal action. Orders document official policy and provide historic documentation of the actions of the commission.

Administering Internal Operations

- **Monthly Reports.** The monthly report is a compilation of statistics and information that provides a summary of the activities of the commission for the month. It also contains copies of press releases and program related newspaper clippings.
- **Annual Reports.** These records provide a summary of the commission's financial conditions and its activities over the year. Copies of the commission's meeting minutes are also included. Annual reports provide detailed accounts of the activities of the commission. **(Bibliographic Title: Annual Reports)**
- **Administrative Correspondence.** These records include correspondence with state officials, legal/advisory opinion correspondence, correspondence between the commission and the director, and correspondence between the Alabama Securities Commission and other state agencies. Because the records document the policies and procedures of the agency and how it interacts with other agencies/boards, the records are deemed permanent. **(Bibliographic Title: Administrative Correspondence)**

Permanent Records List Alabama Securities Commission

Licensing/Registering

1. Meeting Minutes of the Securities Commission

Supervising:

1. Informational Publications
2. Interpretive/No Action Opinions*
3. Petitions to the Commission*

Conducting Hearing/Determining Sanctions

1. Administrative Orders*

Administering Internal Operations

1. Monthly Reports*
2. Annual Reports
3. Administrative Correspondence

*indicates records that ADAH anticipates will remain in the care and custody of the creating agency.

ADAH staff members are available to work with agency staff in determining the best location and storage conditions for the long-term care and maintenance of permanent records.

Alabama Securities Commission Records Disposition Authority

This Records Disposition Authority (RDA) is issued by the State Records Commission under the authority granted by the Code of Alabama 1975 § 41-13-5 and § 41-13-20 through 21. It was compiled by the Government Records Division, Alabama Department of Archives and History (ADAH), which serves as the commission's staff, in cooperation with representatives of the Alabama Securities Commission. The RDA lists records created and maintained by the Alabama Securities Commission in carrying out its mandated functions and activities. It establishes retention periods and disposition instructions for those records and provides the legal authority for the agency to implement records destruction.

Alabama law requires public officials to create and maintain records that document the business of their offices. These records must be protected from "mutilation, loss, or destruction," so that they may be transferred to an official's successor in office and made available to members of the public. Records must also be kept in accordance with auditing standards approved by the Examiners of Public Accounts (Code of Alabama 1975 § 36-12-2, § 36-12-4, and § 41-5-23). For assistance in implementing this RDA, or for advice on records disposition or other records management concerns, contact the ADAH Government Records Division at (334) 242-4452.

Explanation of Records Requirements

- This RDA supersedes any previous records disposition schedules governing the retention of the Alabama Securities Commission records. Copies of superseded schedules are no longer valid and should be discarded.
- The RDA establishes retention and disposition instructions for records listed below, regardless of the medium on which those records may be kept. Electronic mail, for example, is a communications tool that may record permanent or temporary information. As for records in any other format, the retention periods for e-mail records are governed by the requirements of the subfunctions to which the records belong.
- Some temporary records listed under the Administering Internal Operations subfunction of this RDA represent duplicate copies of records listed for long-term or permanent retention in the RDAs of other agencies.
- Certain records and records-related materials need not be retained as records under the disposition requirements in this RDA. Such materials include: (1) duplicate record copies that do not require official action, so long as the creating office maintains the original record for the period required; (2) catalogs, trade journals, and other publications received that require no action and do not document government activities; (3) stocks of blank stationery, blank forms, or other surplus materials that are not subject to audit and have become obsolete; (4) transitory records, which are temporary records created for short-term, internal purposes that may include, but are not limited to: telephone call-back messages; drafts of ordinary documents not needed for their evidential value; copies of

material sent for information purposes but not needed by the receiving office for future business; and internal communications about social activities; and (5) honorary materials, plaques, awards, presentations, certificates, and gifts received or maintained by the agency staff.. They may be disposed of without documentation of destruction.

Records Disposition Requirements

This section of the RDA is arranged by subfunctions of the Alabama Securities Commission and lists the groups of records created and/or maintained by the agency as a result of activities and transactions performed in carrying out these subfunctions. The agency may submit requests to revise specific records disposition requirements to the State Records Commission for consideration at its regular quarterly meetings.

Licensing/Registering

MEETING MINUTES OF THE SECURITIES COMMISSION

Disposition: PERMANENT RECORD.

Recordings of Commission Meetings

Disposition: Temporary Record. Retain until the official minutes are adopted and signed.

Administrative Procedures Rule Filings

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

REGISTER OF ADMINISTRATIVE RULE FILIGS

Disposition: PERMANENT RECORD. Retain in office (Code of Alabama 1975 § 41-22-6).

Rosters of Licensed Check Vendors

Disposition: Temporary Record. Retain for useful life.

License Check Vendor Roster Database

Disposition: Temporary Record. Retain for useful life.

Sale of Checks Licensing Files

Disposition: Temporary Record. Retain 5 years after the end of the year in which the files became inactive.

Sale of Checks Licensing File Database

Disposition: Temporary Record. Retain for useful life.

Registration Rosters

Disposition: Temporary Record. Retain for useful life.

Registration Roster Database

Disposition: Temporary Record. Retain for useful life.

Regulation D Exemption Files

Disposition: Temporary Record. Retain 5 years after the end of the year in which the files became inactive.

Regulation D Exemption File Database

Disposition: Temporary Record. Retain for useful life.

Registration Files

Disposition: Temporary Record. Retain 5 years after the end of the year in which the files became inactive.

Registration File Database

Disposition: Temporary Record. Retain for useful life.

Industrial Development Bond Orders

Disposition: Temporary Record. Retain 5 years after the end of the year in which the files became inactive.

Industrial Development Bond Order Database

Disposition: Temporary Record. Retain for useful life.

Registration Orders

Disposition: Temporary Record. Retain 5 years after the end of the year in which the files became inactive.

Registration Order Database

Disposition: Temporary Record. Retain for useful life.

Supervising**INFORMATIONAL PUBLICATIONS**

Disposition: PERMANENT RECORD.

INTERPRETIVE/NO ACTION OPINIONS

Disposition: PERMANENT RECORD. Retain in office.

PETITIONS TO THE COMMISSION

Disposition: PERMANENT RECORD. Retain in office.

Investigating**Investigation Files**

Disposition: Temporary Record. Retain 10 years after the end of the year in which the records were created.

Investigation File Database

Disposition: Temporary Record. Retain for useful life.

Investigation File Index

Disposition: Temporary Record. Retain until superseded.

Conducting Hearings/Determining Sanctions**ADMINISTRATIVE ORDERS**

Disposition: PERMANENT RECORD. Retain in office.

Administrative Orders Database

Disposition: Temporary Record. Retain for useful life.

Administrative Orders Index

Disposition: Temporary Record. Retain until superseded.

Administering Internal Operations: Managing the Agency**MONTHLY REPORTS**

Disposition: PERMANENT RECORD. Retain in office.

ANNUAL REPORTS

Disposition: PERMANENT RECORD.

ADMINISTRATIVE CORRESPONDENCE

Disposition: PERMANENT RECORD.

Routine Correspondence

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Administrative Reference Files

Disposition: Temporary Record. Retain for useful life.

Records documenting the implementation of the agency's RDA (copies of transmittals forms to Archives or State Records Center, evidence of records destroyed, annual reports to State Records Commission)

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Copies of Approved RDA

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the RDA is superseded.

Computer systems documentation (hardware/software manuals and diskettes, warranties, records of access/authorities, file naming conventions, Y2K records)

Disposition: Temporary Record. Retain documentation of former system 3 years after the end of the fiscal year in which the former hardware and software no longer exists anywhere in the agency and all permanent records have been migrated to a new system.

Printouts of Acknowledgment from the Secretary of State Relating to Notices of Meetings Posted by State Agencies

Disposition: Temporary Record. Retain 3 years.

Administering Internal Operations: Managing Finances

Records documenting the preparation of a budget request package and reporting of the status of funds, requesting amendments of allotments, and reporting program performance

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Records documenting the requisitioning and purchasing of supplies and equipment, receipting and invoicing for goods, and authorizing payment for products

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Records of original entry or routine accounting transactions, such as journals, registers, and ledgers, and records of funds deposited outside the state treasury

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Records documenting requests for authorization from supervisors to travel on official business and other related materials, such as travel reimbursement forms and itineraries

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Records documenting contracts for services or personal property

Disposition: Temporary Record. Retain 6 years after expiration of the contract.

Records documenting the bid process, including requests for proposals and unsuccessful responses

- a. Original Bid Records Maintained in the Purchasing Office of the Agency for Contracts over \$7500

Disposition: Temporary Record. Retain 7 years after the end of the fiscal year in which the bids were opened.

- b. Duplicate copies of bid (where originals are maintained by the Finance Department - Division of Purchasing)
Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the bids were opened.

Audit Reports

Disposition: Temporary Record. Retain 6 years after end of the fiscal year in which the records were created.

Administering Internal Operations: Managing Human Resources

Position Classification Files

Disposition: Temporary Record. Retain 4 years after position is reclassified.

Application Materials

Disposition: Temporary Record. Retain 1 year.

Records documenting payroll (e.g. pre-payroll reports, payroll check registers)

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Records documenting payroll deduction authorizations

Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting payroll deductions for tax purposes (including Form 941)

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Records documenting an employee's work history - generally maintained as a case file

Disposition: Temporary Record. Retain 6 years after separation of employee from the agency.

Records documenting employees' daily and weekly work schedules

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Records documenting an employee's hours worked, leave earned, and leave taken (including time sheets)

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Records documenting an employee's work history, generally maintained as a case file

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Records documenting sick leave donations

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Records of final leave status (cumulative leave)

Disposition: Temporary Record. Retain 6 years after separation of employee from the agency.

Employee Flexible Benefits Plan Files

- a. General information

Disposition: Temporary Record. Retain until superseded.

- b. Other (applications, correspondence)

Disposition: Temporary Record. Retain 6 years after termination of participation in program.

State Employee Injury Compensation Trust Fund Files

Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Administering Internal Operations: Managing Properties, Facilities, and Resources**SEMIANNUAL INVENTORY LISTS**

Disposition: PERMANENT RECORD. Retain in office (Code of Alabama 1975 § 36-16-8[1]).

Transfer of State Property Forms (SD-1) (Agency copies)

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Property Inventory Cards and/or Computer Files

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the items were removed from inventory.

Receipts of Responsibility for Property

Disposition: Temporary Record. Retain until return of item to property manager.

Real Property Leasing/Renting Records

Disposition: Temporary Record. Retain 6 years after expiration of the lease.

Facilities/Building Security Records (including visitor logs)

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Motor Pool Vehicle Use Records

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Insurance Policies/Risk Management Records

Disposition: Temporary Record. Retain 6 years after termination of policy or membership.

Building Maintenance Work Orders

Disposition: Temporary Record. Retain 1 year.

Approval of Records Disposition Authority (RDA)

By signing this agreement, the Alabama Securities Commission acknowledges its responsibilities for the proper management of its records and agrees to abide by the implementation guidelines listed below:

- The Alabama Securities Commission will designate a managerial position as the agency records officer. This position is responsible for: ensuring the development of quality record keeping systems that meet the business and legal needs of the agency, coordinating the transfer and destruction of records, ensuring that permanent records held on alternative storage media (such as microforms and digital imaging systems) are maintained in compliance with national and state standards, submitting an annual report on records management activities to the State Records Commission in January of each year, and ensuring the regular implementation of the agency's approved RDA.
- Permanent records in the Alabama Security Commission's custody will be maintained under proper intellectual control and in an environment that will ensure their physical order and preservation.
- Destruction of temporary records, as authorized in this RDA, should occur agency-wide on a regular basis – for example, after the successful completion of an audit, at the end of an administration, or at the end of a fiscal year. Despite the RDA's provisions, no record should be destroyed that is necessary to comply with requirements of the state Sunset Act, audit requirements, or any legal notice or subpoena.
- The Alabama Securities Commission should maintain full documentation of any computerized record-keeping system it employs. It should develop procedures for: (1) backing up all permanent records held in electronic format; (2) storing a back-up copy off-site; and (3) migrating all permanent records when the system is upgraded or replaced. If the agency chooses to maintain permanent records solely in electronic format, it is committed to funding any system upgrades and migration strategies necessary to ensure the records' permanent preservation and accessibility.
- The Alabama Securities Commission agrees to allow the staff of the State Records Commission or the Examiners of Public Accounts to examine the condition of the permanent records maintained in the custody of the board and to inspect records destruction documentation. Government Records Division archivists are available to train the board staff in RDA implementation and otherwise assist the board in implementing its records management program.

The State Records Commission adopted this revision to the Records Disposition Authority on January 24, 2002.

Edwin C. Bridges, Chairman
State Records Commission

Date

Receipt acknowledged:

Joseph P. Borg, Executive Director
Alabama Securities Commission

Date